

AMENDED IN SENATE MAY 2, 2006

SENATE BILL

No. 1696

Introduced by Senators Dunn and Speier

February 24, 2006

An act to add Section 421 to the Penal Code, relating to the public peace.

LEGISLATIVE COUNSEL'S DIGEST

SB 1696, as amended, Dunn. National Guard: public peace.

Existing law provides that state and local law enforcement agencies are to enforce state law.

This bill would provide that, except in cases and under circumstances expressly authorized by the *California* Constitution or act of the Legislature, any person who willfully uses any part of the ~~National Guard~~ *Military Department* as a posse comitatus or otherwise for civilian law enforcement purposes, including surveillance, ~~would~~ *shall* be fined not more than \$250,000 or imprisoned in the state prison, or both.

By defining a new crime this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 421 is added to the Penal Code, to read:

2 421. (a) Whoever, except in cases and under circumstances
3 expressly authorized by the *California* Constitution or act of the
4 Legislature, willfully uses any part of the ~~National Guard~~
5 *Military Department, including the National Guard*, as a posse
6 comitatus or otherwise for civilian law enforcement purposes,
7 including surveillance, shall be fined not more than two hundred
8 fifty thousand dollars (\$250,000) or imprisoned in the state
9 prison, or both.

10 (b) This provision shall not apply to use of ~~National Guard~~
11 ~~forces~~ *Military Department forces, including the National Guard*,
12 called upon by the Governor pursuant to Section 143 or 146 of
13 the Military and Veterans Code *or pursuant to any provision of*
14 *the California Constitution or other statute expressly authorizing*
15 *that activity*.

16 SEC. 2. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the
21 penalty for a crime or infraction, within the meaning of Section
22 17556 of the Government Code, or changes the definition of a
23 crime within the meaning of Section 6 of Article XIII B of the
24 California Constitution.